

**Notice of Allowability**

Application No.

10/764,474

Applicant(s)

KAUFMAN, MICHAEL J.

Examiner

Douglas J. Theisen

Art Unit

1724

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to a request for corrected filing receipt dated 23 August 2004.
2. ☒ The allowed claim(s) is/are 1-17.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |  |
|--|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                                |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>113005</u> . |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date <u>012704</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment  |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material                             | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance                       |
|  | 9. <input type="checkbox"/> Other _____  |

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Warren Edmonds on 30 November 2005.

The application has been amended as follows:

In claim 11, line 3 insert "said" after "from".

In claim 13, line 3 insert "said" after "from".

In claim 15, line 2 change "13" to "14".

On page 1, line 12 change both instances of "contaminates" to "contaminants".

On page 2, line 1 change "Both" to "These".

On page 3, line 15 change "upstream" to "downstream".

In the Abstract, line 10 change "horizontally" to "horizontal".

2. The use of "means plus function" language within the claims gives rise to analysis under 35 USC 112, sixth paragraph. Following the guidelines in MPEP 2181 set forth under *In re Donaldson Co.* 16 F.3d 1189, 29 USPQ 2d 1845 (Fed. Cir. 1994) "means plus function" language is interpreted as covering the corresponding structure described within the specification or equivalents thereof.

Art Unit: 1724

3. In claims 1 and 2 “a device for enhancing aeration and chemical treatment of said stream flowing through said trough” is considered to cover an aeration edge unit (10) in combination with a semi-circular, elongate container supporting a gel chemical log L.

4. The following is an examiner’s statement of reasons for allowance: The reasons for allowance are that the closest prior art, U.S. patent no. 2,310,009 to Baker et al., describes a system for chemical treatment of contaminated water, comprising: a trough (mixing launders 1), the trough having at least one slat (baffles 10) disposed therein for interrupting a stream of contaminated water flowing in the trough, the at least one slat having an upstream face and a downstream face. Baker does not disclose the above in combination with applicant’s features of a device for enhancing aeration and chemical treatment of the stream flowing through the trough, the device being removably mounted on the at least one slat nor does Baker disclose the above in combination with applicant’s features of a first plate having a first end and a U-shaped second end, a plurality of spaced coplanar fingers extending from the first end, wherein the second end is positioned on the at least one slat, a second plate having a first end and an L-shaped second end, and a plurality of spaced coplanar fingers extending from the first end of the second plate, wherein the second end of the second plate is positioned on the second end of the first plate.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Art Unit: 1724

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas J. Theisen whose telephone number is 571-272-1168. The examiner can normally be reached on Monday, Tuesday, and Wednesday 6:30 until 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

djt

DUANE SMITH  
PRIMARY EXAMINER  
*D-JA*  
*11-30-05*